

AMENDED IN ASSEMBLY AUGUST 4, 2014

AMENDED IN ASSEMBLY JULY 1, 2014

AMENDED IN ASSEMBLY JUNE 17, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1266

**Introduced by Senator Huff
(Coauthor: Senator Hill)**

February 21, 2014

An act to amend Section 4119.2 of the Business and Professions Code, and to amend Section 49414 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, Huff. Pupil health: epinephrine auto-injectors.

(1) Existing law authorizes a school district or county office of education to provide emergency epinephrine auto-injectors to trained personnel, and authorizes trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. Existing law authorizes each public and private elementary and secondary school in the state to designate one or more school personnel on a voluntary basis to receive initial and annual refresher training regarding the storage and emergency use of an epinephrine auto-injector, as specified. Existing law authorizes a

school nurse, or a person who has received the training described above if the school does not have a school nurse, to, among other things, obtain a prescription for epinephrine auto-injectors.

This bill would instead require school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses and trained personnel who have volunteered, as specified, and would authorize school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. The bill would require school districts, county offices of education, and charter schools to distribute a notice requesting volunteers at least once a year. The bill would require a ~~qualified supervisor of health, as specified,~~ *school district, county office of education, or charter operator* to obtain the prescription for epinephrine auto-injectors from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers. The bill would require epinephrine auto-injectors to be stocked and restocked by ~~a qualified supervisor of health, or a schoolsite employee, if there is no qualified supervisor of health,~~ *the school district, county office of education, or charter operator*, in accordance with specified provisions. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law requires the Superintendent of Public Instruction to establish minimum standards of training for the administration of epinephrine auto-injectors, as specified, and requires a school district or county ~~of~~ office of education to create a plan relating to ~~their~~ *its* use.

This bill would revise the training requirements, and would require the Superintendent to review the minimum standards of training at least every 5 years. The bill would delete the requirement for creating a plan, and would impose specified reporting requirements relating to the use of epinephrine auto-injectors on specified school employees, local educational agencies, and the State Department of Education. The bill would require a school district, county office of education, or charter school to ensure that each employee who volunteers is provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, as specified. The bill would authorize a state agency, the State Department of Education, or a public school to accept gifts, grants, and donations from any source for the support of the public school carrying out these provisions. By

requiring local educational agencies to perform additional duties related to epinephrine auto-injectors, the bill would impose a state-mandated local program.

(3) Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district or county office of education if certain requirements are met.

This bill would also authorize a pharmacy to furnish epinephrine auto-injectors to charter schools pursuant to those provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4119.2 of the Business and Professions
- 2 Code is amended to read:
- 3 4119.2. (a) Notwithstanding any other law, a pharmacy may
- 4 furnish epinephrine auto-injectors to a school district, county office
- 5 of education, or charter school pursuant to Section 49414 of the
- 6 Education Code if all of the following are met:
- 7 (1) The epinephrine auto-injectors are furnished exclusively for
- 8 use at a school district site, county office of education, or charter
- 9 school.
- 10 (2) A physician and surgeon provides a written order that
- 11 specifies the quantity of epinephrine auto-injectors to be furnished.
- 12 (b) Records regarding the acquisition and disposition of
- 13 epinephrine auto-injectors furnished pursuant to subdivision (a)
- 14 shall be maintained by the school district, county office of
- 15 education, or charter school for a period of three years from the
- 16 date the records were created. The school district, county office
- 17 of education, or charter school shall be responsible for monitoring
- 18 the supply of epinephrine auto-injectors and ensuring the
- 19 destruction of expired epinephrine auto-injectors.

SEC. 2. Section 49414 of the Education Code is amended to read:

49414. (a) School districts, county offices of education, and charter schools shall provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered pursuant to subdivision (d), and school nurses or trained personnel may use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Anaphylaxis” means a potentially life-threatening hypersensitivity to a substance.

(A) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(B) Causes of anaphylaxis may include, but are not limited to, an insect sting, food allergy, drug reaction, and exercise.

(2) “Authorizing physician and surgeon” may include, but is not limited to, a physician and surgeon employed by, or contracting with, a local educational agency, a medical director of the local health department, or a local emergency medical services director.

(3) “Epinephrine auto-injector” means a disposable drug delivery system with a spring-activated needle that is designed for emergency administration of epinephrine to provide rapid, convenient first aid for persons suffering a potentially fatal reaction to anaphylaxis.

(4) “Qualified supervisor of health” may include, but is not limited to, a school nurse.

(5) “Volunteer” or “trained personnel” means an employee who has volunteered to administer epinephrine auto-injectors to a person if the person is suffering, or reasonably believed to be suffering, from anaphylaxis, ~~and~~ has been designated by a ~~school~~ school, and has received training pursuant to subdivision (d).

(c) Each private elementary and secondary school in the state may voluntarily determine whether or not to make emergency epinephrine auto-injectors and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable

1 alternative to epinephrine auto-injectors and trained personnel. A
2 private elementary or secondary school choosing to exercise the
3 authority provided under this subdivision shall not receive state
4 funds specifically for purposes of this subdivision.

5 (d) Each public and private elementary and secondary school
6 in the state may designate one or more volunteers to receive initial
7 and annual refresher training, based on the standards developed
8 pursuant to subdivision (e), regarding the storage and emergency
9 use of an epinephrine auto-injector from the school nurse or other
10 qualified person designated by an authorizing physician and
11 surgeon.

12 (e) (1) Every five years, or sooner as deemed necessary by the
13 Superintendent, the Superintendent shall review minimum
14 standards of training for the administration of epinephrine
15 auto-injectors that satisfy the requirements of paragraph (2). For
16 purposes of this subdivision, the Superintendent shall consult with
17 organizations and providers with expertise in administering
18 epinephrine auto-injectors and administering medication in a school
19 environment, including, but not limited to, the State Department
20 of Public Health, the Emergency Medical Services Authority, the
21 American Academy of Allergy, Asthma and Immunology, the
22 California School Nurses Organization, the California Medical
23 Association, the American Academy of Pediatrics, Food Allergy
24 Research and Education, the California Society of Allergy, Asthma
25 and Immunology, the American College of Allergy, Asthma and
26 Immunology, *the Stanford Allergy Center*, and others.

27 (2) Training established pursuant to this subdivision shall include
28 all of the following:

29 (A) Techniques for recognizing symptoms of anaphylaxis.

30 (B) Standards and procedures for the storage, restocking, and
31 emergency use of epinephrine auto-injectors.

32 (C) Emergency followup procedures, including calling the
33 emergency 911 telephone number and contacting, if possible, the
34 pupil's parent and physician.

35 (D) ~~Recommendation~~ *Recommendations* on the necessity of
36 instruction and certification in cardiopulmonary resuscitation.

37 (E) Instruction on how to determine whether to use an adult
38 epinephrine auto-injector or a junior epinephrine auto-injector,
39 which shall include consideration of a pupil's grade level or age

1 as a guideline of equivalency for the appropriate pupil weight
2 determination.

3 (F) Written materials covering the information required under
4 this subdivision.

5 (3) Training established pursuant to this subdivision shall be
6 consistent with the most recent Voluntary Guidelines for Managing
7 Food Allergies In Schools and Early Care and Education Programs
8 published by the federal Centers for Disease Control and
9 Prevention and the most recent guidelines for medication
10 administration issued by the department.

11 (4) A school shall retain for reference the written materials
12 prepared under subparagraph (F) of paragraph (2).

13 (f) A school district, county office of education, or charter school
14 shall distribute a notice at least once per school year to all staff
15 that contains the following information:

16 (1) A description of the volunteer request stating that the request
17 is for volunteers to be trained to administer an epinephrine
18 auto-injector to a person if the person is suffering, or reasonably
19 believed to be suffering, from anaphylaxis, as specified in
20 subdivision (b).

21 (2) A description of the training that the volunteer will receive
22 pursuant to subdivision (d).

23 ~~(g) (1) A qualified supervisor of health at a school district, a~~
24 ~~county office of education, or a charter operator shall obtain from~~
25 ~~an authorizing physician and surgeon a prescription for each school~~
26 ~~for epinephrine auto-injectors that, at a minimum, includes, for~~
27 ~~elementary schools, one regular epinephrine auto-injector and one~~
28 ~~junior epinephrine auto-injector, and for junior high schools, middle~~
29 ~~schools, and high schools, if there are no pupils who require a~~
30 ~~junior epinephrine auto-injector, one regular epinephrine~~
31 ~~auto-injector. A qualified supervisor of health~~ *The school district,*
32 *county office of education, or charter operator* shall be responsible
33 for stocking the epinephrine auto-injector and restocking it if it is
34 used.

35 ~~(2) If a school district, county office of education, or charter~~
36 ~~operator does not have a qualified supervisor of health, the school~~
37 ~~district, county office of education, or charter operator shall~~
38 ~~designate a schoolsite-level employee to carry out the duties~~
39 ~~specified in paragraph (1).~~

40 (3)

1 (2) A prescription pursuant to this subdivision may be filled by
2 local or mail order pharmacies or epinephrine auto-injector
3 manufacturers.

4 (h) A school nurse, ~~or~~ or, if the school does not have a school
5 nurse or the school nurse is not onsite or available, a volunteer;
6 may administer an epinephrine auto-injector to a person exhibiting
7 potentially life-threatening symptoms of anaphylaxis at school or
8 a school activity when a physician is not immediately available.
9 If the epinephrine auto-injector is used it shall be restocked as soon
10 as reasonably possible, but no later than two weeks after it is used.
11 Epinephrine auto-injectors shall be restocked before their expiration
12 date.

13 (i) A volunteer shall initiate emergency medical services or
14 other appropriate medical followup in accordance with the training
15 materials retained pursuant to paragraph (4) of subdivision (e).

16 (j) No later than 72 hours after an incident of epinephrine
17 auto-injector use, the school nurse or the volunteer, in conjunction
18 with the school administrator, shall report the incident to the school
19 district, county office of education, or charter school on a form
20 developed by the department in conjunction with the California
21 School Nurses Organization, the California Emergency Medical
22 Services Authority, and the American Academy of Pediatrics. The
23 school district, county office of education, or charter school shall
24 annually report the data using the California Longitudinal Pupil
25 Achievement Data System. The department shall annually publish
26 a summary of the data on its Internet Web site.

27 (k) A school district, county office of education, or charter
28 school shall ensure that each employee who volunteers under this
29 section will be provided defense and indemnification by the school
30 district, county office of education, or charter school for any and
31 all civil liability, in accordance with, but not limited to, that
32 provided in Division 3.6 (commencing with Section 810) of Title
33 1 of the Government Code. This information shall be reduced to
34 writing, provided to the volunteer, and retained in the volunteer's
35 personnel file.

36 (l) A state agency, the department, or a public school may accept
37 gifts, grants, and donations from any source for the support of the
38 public school carrying out the provisions of this section, including,
39 but not limited to, the acceptance of epinephrine auto-injectors
40 from a manufacturer or wholesaler.

1 SEC. 3. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O